

COLORADO STATE BOARD OF PHARMACY
March 20, 2008

Minutes

The Colorado State Board of Pharmacy meeting was convened by President E. Katherine Edelblut, R.Ph., at approximately 8:34 a.m. on Thursday, March 20, 2008 at 1560 Broadway, Conference Room 1380 A & B, Denver, CO. Notice of this meeting was given in accordance with Division of Registrations Policy Number 80-17.

Board members attending were: Jeannine G. Dickerhofe, R.Ph., Rich Doyle, R.Ph., E. Katherine Edelblut, R.Ph.; Leonard Hierath, P.E., Paul Limberis, R.Ph.; Mitchell P. Sprier, R.Ph.; and Averil Strand, R.N.

Staff members attending were Wendy Anderson, R.Ph., Program Director; Chief Inspector, Chris Gassen, R.Ph.; Inspectors Billie Marseilles, R.Ph.; Susan Martin, R.Ph.; and Mark O'Neill, R.Ph.; Tia Johnson, Complaint and Licensing Specialist, and Aaron Acker, Specialist, Office of Expedited Settlement. Also present were Jo Kaye, Assistant Attorney General, and Jack Wesoky, Assistant Attorney General, to advise the Board.

APPROVAL OF MINUTES

The Board approved and accepted the revised minutes from the January 17, 2008 meeting as submitted, and the revised minutes from the February 14, 2008, meeting as submitted.

ADDITIONS TO THE AGENDA

Ms. Anderson advised the Board of the following additions to the agenda:

- Jared F. Lunz, pharmacist licensure applicant
- Case #2008-2607 regarding Kit C. Frisk, RPh 14867
- Request from HCA / HeathOne Consolidated Pharmacy
- Case #2008-2246 regarding Aaron Fallik, RPh 17129, 20-day response

APPEARANCES

None

HEARINGS

None

REPORTS

President's Remarks

None

Program Director's Report

Ms. Anderson passed out tentative board meeting dates for 2009 and 2010 and requested the Board members review them and let her know at the next meeting of the suitability of the dates. She then requested the Board members begin thinking about the objectives they want the Pharmacy Technician Taskforce to explore as she would be requesting the objectives at the next meeting.

Ms. Anderson then updated the members on the progress of the Electronic Prescription Drug Monitoring Program. She advised the members that Board staff has sent out over sixty complaints to non-resident pharmacies for non-compliance with the Program. The members gave staff the authority to dismiss any complaints against these pharmacies when staff determines that the pharmacy has ceased business.

Ms. Anderson told the members that staff is in the process of conducting the continuing education audit from the last pharmacist renewal. She requested guidance on how to handle the audited licensees who are lacking the 24 required CE hours. The Board decided that if the licensee has less than 20 hours of continuing education, staff should initiate a complaint against the licensee. In the event, the licensee has between 20 and 24 hours, the Board directed that staff should give the licensee thirty days to obtain the additional hours and provide proof to the Board. If the licensee fails to comply with that request, staff should initiate a complaint against the licensee. The Board also directed staff to make sure a brief article appears in an upcoming newsletter advising pharmacists of the importance of the continuing education requirement and to count their hours carefully.

Ms. Anderson then requested the Board's guidance on lapsed wholesaler licenses. The Board decided that if a lapsed wholesaler wishes to reinstate, it should go through the original application procedure again, including the background check, license verification, and inspection requirements.

Ms. Anderson updated the board on the progress of the Other Outlet Committee and Nuclear Taskforce. She then discussed issues surrounding complaints against non registered wholesalers. The Board stated that the initial complaint letters to these facilities should include a request for pedigrees on the products shipped into Colorado.

The Board then considered proposed changes to rules 3.00.50(e) and 4.02.00 and moved them to hearing. The Board then considered proposed new rule 23.00.00 regarding the Electronic Prescription Drug Monitoring Program. After due consideration, these rules were moved to hearing. The Board then approved Policy 10-7 which details Letters of Concern and the length of time cases dismissed with Letters of Concern are retained by the Board.

Ms. Anderson provided the Board with an update on 2007 House Bill 1289 and approval of a compounding accreditation body. At this time, the National Association of Boards of Pharmacy (NABP) is still working with the Pharmacy Compounding Accreditation Board (PCAB) to establish a partnership. Ms. Anderson stated she would update the Board as soon as more information was available.

Colorado Pharmacists Society (CPS) – Rich Doyle, RPh

Mr. Doyle informed the Board that the next CE program is the 2008 CPS Annual Summer Meeting at the Copper Mountain Conference Center June 13-14, 2008. Ten hours of ACPE-approved education will be provided. The Annual Summer Meeting awards ceremony will include the installation of Benita Rumold as the 2008-2009 CPS President.

CPS will be participating in the second Pharmacist Line 9 on March 27, 2008 from 4-6:30 PM. The first Pharmacist Line 9 generated over 175 calls between the hours of 5:30 -7:30 AM. Consequently, for the extended afternoon time slot, over 300 calls are anticipated.

The Colorado Pharmacists Society is once again a partner for the 9 Health Fair which will occur April 12-20, 2008 and is helping the Fair organizers get pharmacist volunteers for designated sites throughout Colorado. To register as a pharmacist volunteer, those interested should go to www.9healthfair.org and click on “Find a Fair”, search by sites, under screenings, click “Ask a Pharmacist” and a complete list of sites looking for pharmacists will be displayed. A variety of tools have been developed and will be posted on the website. These tools include pdf files that can be downloaded, printed and distributed as handouts by the volunteers.

The Colorado Pharmacists Society, in cooperation with the Colorado Pharmacy Coalition, is seeking volunteers to serve on an immunization task force that will review the current rules and may suggest changes to address the concerns of the task force participants. Interested volunteers should contact Val Kalnins at the CPS office.

Governor’s Expert Emergency Epidemic Response Committee (GEERC) – Paul Limberis, RPh

None

Intern & School Relations –Jeannine Dickerhofe, RPh

None

Legislation - Jeannine, Dickerhofe, RPh.

Ms. Dickerhofe informed the Board that three bills affecting pharmacy discussed in the legislative report during the January Board of Pharmacy meeting are in various committees and their status is as follows:

- HB 1062 – Includes a Drug Therapy Management component in any program administered by the state department
Awaiting Governor’s signature
- HB 1032 – Changes payments to pharmacies
In House Appropriations Committee
- Mail Order Bill - Allows Medicaid patients to receive Rx’s through the mail

In Senate Appropriations Committee

Three other bills have been introduced affecting pharmacy since the January Board meeting. These are as follows:

- SB 185 – required physician be contacted before substitution on an immunosuppressive prescription could take place.
- HB 1262 - required physician be contacted before substitution on an anti-convulsant prescription could take place.

Both of these bills died in committee.

- SB 190 – requires that pharmacists serving long term care facilities and assisted living facilities accept returned drugs and mandates that these drugs be redispensed.

This bill passed out of the Senate Health and Human Services Committee on a 4-3 vote.

Rules – Rich Doyle

None

Inspectors

None

OLD BUSINESS

Inspectors

Request from Walgreen Co.

The Board considered a memorandum from Mark R. O'Neill regarding a request from Walgreen Co. to electronically store non-controlled substance and schedule III through V controlled substance prescription orders. The Board had tabled action on this item at the January meeting. After due deliberation, the Board again tabled further action.

Stipulations and Final Agency Orders

Jimmy L. Cassity, RPh 13240

The Board considered correspondence from Mr. Cassity requesting release from the terms of his Stipulation and Final Agency Order. The Board also considered a report from Tia Johnson, Licensing and Complaint Specialist, discussing Mr. Cassity's compliance. After due consideration, the Board voted to release Mr. Cassity from the terms of his Stipulation and Final Agency Order.

Marjorie C. Hogue, RPh 11290

Katherine Edelblut recused.

The Board considered correspondence requesting release from the terms of her Stipulation and Final Agency Order. The Board also considered a report from Tia Johnson, Licensing and Complaint Specialist, discussing Ms. Hogue's compliance. After due consideration, the Board voted to release Ms. Hogue from the terms of her Stipulation and Final Agency Order.

Jason M. McCanless, RPh 15334

The Board considered correspondence from Mr. McCanless requesting release from the terms of his Stipulation and Final Agency Order. The Board also considered a report from Tia Johnson, Licensing and Complaint Specialist, discussing Mr. McCanless' compliance. After due consideration, the Board voted to release Mr. McCanless from the terms of his Stipulation and Final Agency Order.

Leonard D. McGinnity, RPh 9625

The Board considered a report from Tia Johnson, Licensing and Complaint Specialist, discussing Mr. McGinnity's compliance with his Stipulation and Final Agency Order. After due consideration, the Board directed staff to send a letter to Mr. McGinnity expressing the Board's concerns with his compliance.

Rodney's Clinic Pharmacy, PDO 5-6

The Board considered a report from Tia Johnson, Licensing and Complaint Specialist, requesting the pharmacy's release from the terms of the Stipulation and Final Agency Order, due to the sale of the pharmacy. After due consideration, the Board voted to release Rodney's Clinic Pharmacy from the terms of its Stipulation and Final Agency Order.

Paul M. Soderberg, RPh 15393

The Board considered correspondence from Mr. Soderberg requesting release from the terms of his Stipulation and Final Agency Order. The Board also considered a report from Tia Johnson, Licensing and Complaint Specialist, discussing Mr. Soderberg's compliance. After due consideration, the Board voted to release Mr. Soderberg from the terms of his Stipulation and Final Agency Order.

Walgreen Pharmacy #1728, PDO 79-14

Mitchell P. Sprier, R.Ph. recused

The Board considered correspondence requesting release from the terms of his Stipulation and Final Agency Order. The Board considered a report from Tia Johnson, Licensing and Complaint Specialist, discussing Walgreen Pharmacy #1728 Stipulation and Final Agency Order compliance as well as a verbal report from Chief Inspector Chris Gassen discussing the pharmacy's compliance. After due consideration, the

Board voted to release Walgreen Pharmacy #1728 from the terms of its Stipulation and Final Agency Order.

Ted J. Zbacnik, RPh 15900

E. Katherine Edulblut, R.Ph., recused.

The Board considered correspondence from Mr. Zbacnik requesting changes to the terms of his Stipulation and Final Agency Order. The Board also considered an Agenda Memorandum from Tia Johnson, Licensing and Complaint Specialist, discussing Mr. Zbacnik's request. After due consideration, the Board voted to approved Mr. Zbacnik's request for changes to the terms of his Stipulation and Final Agency Order.

Miscellaneous

The Board reviewed information concerning additions or amendments to the following regulations: 3.02.00 & 21.00.00 (3 CCR, 719-1).

Jeannine G. Dickerhofe, R.Ph., recused.

The Board tabled further action concerning rule 3.02.00 and 21.00.00, pending further review. Four Board members agreed to meet at a future date to discuss the rules in detail and bring recommendations back to the Board. Program Director Wendy Anderson stated that staff would work on noticing and convening such a meeting.

NEW BUSINESS

Pharmacist Renewal Issues

Angela N. Lewis, IN 2003108

The Board reviewed an Agenda Memorandum from Tia Johnson, Licensing and Complaint Specialist, concerning Ms. Lewis' affirmative answer to question #6 on her pharmacist intern renewal application.

After due consideration, the Board tabled further discussion concerning this matter, pending review of additional information.

Daniel L. Wylie, RPh 15265

The Board reviewed an Agenda Memorandum from Tia Johnson, Licensing and Complaint Specialist, concerning Mr. Wylie's affirmative answer to question #2 on his pharmacist renewal application.

After due consideration, the Board accepted Mr. Wylie's explanation concerning the affirmative answer, and determined no further action was necessary.

Complaints

Thomas H. Brady, RPh 11381

2008-2090

After due consideration of the available information, the Board voted to refer the case for discipline.

Cornell Prescription Pharmacy, PDO 40 **2008-2088**

Jeannine G. Dickerhofe, R.Ph., recused.

After due consideration of the available information, the Board voted to refer the case for discipline.

Thomas A. Lotocki, RPh 11610 **2008-2089**

Jeannine G. Dickerhofe, R.Ph., recused.

After due consideration of the available information, the Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

Drogueria de la Villa, Inc., WHO Applicant **2008-1776**

After due consideration, the Board tabled this matter, pending receipt of additional information.

Dubin Medical, Inc., WHO 7276 **2008-1990**

After due consideration of the available information, the Board voted to refer the case for discipline.

Aaron P. Fallik, RPh 17129 **2008-2246**

After due consideration of the available information, the Board voted to refer the case for discipline.

Kit C. Frisk, RPh 14867 **2008-1779**

After due consideration of the available information, the Board voted to refer the case for discipline.

Kit C. Frisk, RPh 14867 **2008-2607**

After due consideration of the available information, the Board voted to refer the case for discipline.

Roberto L. Garcia, RPh 10680 **2008-2110**

Paul Limberis, R.Ph., recused.

A motion was made, seconded, and carried to dismiss the case as being without merit.

Goldin Pharmacy & Medical Supply, PDO 411 **2008-1641**

After due consideration, the Board tabled further discussion concerning this matter, pending receipt of additional information.

Paul E. Groth, RPh 10828 **2008-2111**

After due consideration of the available information, the Board voted to refer the case for discipline.

Highlands Behavioral Health System, PDO 682 **2008-1556**

A motion was made, seconded, and carried to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

KeySource Medical, Inc. Unregistered **2008-2106**

After due consideration of the available information, the Board voted to refer the case for discipline.

Kent R. Laflin, RPh 9621 **2008-1339**

Mitchell P. Sprier, R.Ph., recused.

After due consideration of the available information, the Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

Additionally, the Board directed a letter sent to the owner and pharmacist manager of the pharmacy named in this case regarding the pharmacy's handling of emergency kit medications.

Ormond L. Morford, RPh 17040 **2008-2083**

After due consideration of the available information, the Board voted to refer the case for discipline.

Mountain Vet Supply, Inc., WHI 6022 **2008-1956**

After due consideration of the available information, the Board voted to refer the case for discipline.

Star Drug, Inc., PDO 125-3 **2008-2084**

After due consideration of the available information, the Board voted to refer the case for discipline.

Thomas L. Bratz, RPh 9612 **2008-2086**

After due consideration of the available information, the Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

North Valley Hospital – Rehabilitation, PDO 119-11 **2008-2287**

After due consideration of the available information, the Board voted to refer the case for discipline.

Amy E. Shields, RPh 14729 **2008-2006**

After due consideration of the available information, the Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

Torrie D. Smith, RPh 14611 **2008-1972**

A motion was made, seconded, and carried to dismiss the case as being without merit.

South Pointe Wholesale, Inc., Unregistered **2008-1753**

After due consideration of the available information, the Board voted to issue a Cease and Desist Order for the unregistered practice of South Pointe Wholesale, Inc.

Westside Neighborhood Health Center, PDO 99-18

2008-1752

Paul Limberis Recused.

A motion was made, seconded, and carried to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Ernest N. Whitman, Jr., RPh 9229

2008-1973

Mitchell Spreier, RPh recused.

After due consideration of the available information, the Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

LICENSING

Other Outlets, New

The Board approved the registration of 2 new outlets.

Prescription Drug Outlets, New (In-State)

The Board approved the registrations of 4 new in-state outlets.

Prescription Drug Outlets, New (Out-of-State)

The Board approved the registrations of 9 new out-of-state outlets.

Wholesalers

The Board approved the registrations of 21 Out-of-State Wholesalers.

The Board approved the registration of 1 In-State Wholesaler registrations.

Manufacturers

The Board did not approve any Manufacturer registrations.

Limited Licenses

The Board did not approve any Limited License registrations.

Licensure by Examination

The Board ratified the licensure of 6 applicants for licensure by examination.

Licensure by License Transfer

The Board ratified the licensure of 23 applicants seeking licensure through license transfer. It was noted that these licensees met all of the requirements for licensing under the provisions of section 12-22-116, C.R.S.

Licensure Issues

Non-Resident Wholesaler Licensure Issues

Drogueria de la Villa, Inc., Out of State Wholesaler Applicant

After due consideration of the available information, the Board tabled further review of this application, pending receipt of additional information.

KeySource Medical, Inc., Out of State Wholesaler Applicant

After due consideration of the available information, the Board directed the issuance of a conditional out-of-state wholesaler license to KeySource Medical, Inc.

Nationwide Medical/Surgical, Inc., Out of State Wholesaler Applicant

After due consideration of the available information, the Board directed the issuance of an out-of-state wholesaler license to Nationwide Medical/Surgical, Inc.

Prescription Drug Outlet Licensure Issues

HCA / HeathOne Consolidated Pharmacy, Prescription Drug Outlet Applicant

After due consideration of the available information, the Board denied HCA / HealthOne's request for waiver of requirements from 5.01.31(e).

Pharmacist Licensure Issues

Jared F. Lunz, Pharmacist Applicant

After due consideration of the available information, the Board directed the issuance of pharmacist license to Mr. Lunz, upon his completion of all requirements for pharmacist licensure.

MISCELLANEOUS

Correspondence, etc.

Institute for the Certification of Pharmacy Technicians (ICPT)

The Board reviewed a request for ICPT for understanding the Board's definition of a "nationally recognized certification board" for the certification of pharmacy technicians.

After due consideration, the Board interpreted its statutory language of a "nationally recognized certification board" for pharmacy technicians to mean those certification boards that are approved by the National Association of Boards of Pharmacy (NABP). Since ICPT and ExCPT are not approved by NABP, pharmacy technician certification obtained through ICPT is not acceptable in Colorado at this time.

NABP, Pharmacy Curriculum Outcomes Assessment

The Board reviewed and noted the assessment information.

NABP State News Roundup

The Board reviewed and noted the information in the State News Roundup.

Peer Assistance Services, 2nd Quarter Report, 2007-2008

The Board reviewed and noted the report.

Peer Assistance Services Mid-year Financial Statement, 2007-2008

The Board reviewed and noted the report.

Request from Craig Hospital, PDO, Regarding Rule 19

The Board reviewed a request on behalf of Craig Hospital Pharmacy for a waiver from the immunization record-keeping requirements detailed in Board Rule 19.

The Board tabled action on the request at this time pending the outcome of the Immunization Taskforce being convened by the Colorado Pharmacist's Society.

Rx Beat, Winter 2007

The Board reviewed and noted the information in the RX Beat.

EXECUTIVE SESSION

Board President E. Katherine Edelblut moved that the Board enter into executive session as authorized by CRS 24-6-402 subsection (3)(a) roman (III) to discuss matters which are required by law to be kept confidential. Specifically, the provisions of law requiring these matters to be kept confidential are:

CRS 24-4-402 subsection (3)(a) romans (II) and (III), and section 13-90-107(b), which protect as confidential communications with counsel that are matters of pending or imminent litigation, or are otherwise subject to the attorney-client privilege, and CRS 25-1-1201 et sequitor, which protects the confidentiality of information pertaining to individual medical records.

The motion was unanimous.

Case Status Reports

The Board read and discussed the report from the Rehabilitation Evaluation Committee.

The Board discussed case 2008-1448.

The Board discussed the renewal application of Angela Lewis.

The Board read and discussed the March 3, 2008 case status report from Mr. Acker and considered counteroffers in case numbers 2008-1473 and 2008-2937.

The Board read and discussed the March 20, 2008 case status report from Ms. Kaye.

The Board discussed all items referred to it earlier in the meeting as well as matters confidential by law.

OPEN SESSION

The Board approved admission to the REC of applicant PR-08-153.

2008-1448

A motion was made, seconded, and carried to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Bradlee M. Cox, IN 2002965 (lapsed 10/31/07)

2007-2577

After due consideration, the Board rescinded the referral of this case for discipline, and dismissed the case.

Terry L. Kurtz, RPh 15703

2008-1100

After due consideration, the Board rescinded the referral of this case for discipline, and Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

ADJOURNMENT

The Board adjourned at 4:10 p.m.

Approved by E. Katherine Edelblut, RPh, President

Date: April 17, 2008

Attestation:

Pursuant to § 24-6-402(2)(d.5)(I)(B), C.R.S. , as Board President, I attest that the executive session of the Colorado Board of Pharmacy meeting held on March 20, 2008, was confined to the topics authorized for discussion pursuant to 24-6-402(3)(a)(II), 24-6-402(3)(a)(III), C.R.S.

Approved by E. Katherine Edelblut, RPh, President

Date: April 17,, 2008

Pursuant to § 24-6-402(2)(d.5)(I)(B), C.R.S. , as counsel for the Board, I attest that it is my opinion that all matters discussed during the executive session of the Colorado Board of Pharmacy meeting held on March 20, 2008, constituted attorney-client communications and the contents of attorney-client discussions are not reflected within these minutes.

Approved by Jo Kaye, Assistant Attorney General

Date: April 17, 2008